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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/579,380 | 09/13/2006 | James Ylias | 65558 (52855) | 8276 |

21874 7590 04/14/2009

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| EXAMINER | |
|---|---|
| HIJAZ, OMAR F | |
| **ART UNIT** | **PAPER NUMBER** |
| 3633 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 04/14/2009 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/579,380 | YLIAS, JAMES | |
| | Examiner | Art Unit | |
| | OMAR HIJAZ | 3633 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *20 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) *17* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 May 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

The Amendment filed on February 20, 2009 has been entered. Claims 1, 3, 6-9, 11-12, 14, and 16 have been amended, and claim 17 has been cancelled. Therefore, claims 1-16 are now pending in the application.

### *Response to Amendment*

1. The previous claim objections are withdrawn in light of Applicant's amendments.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (U.S. Patent No. 5,274,965) in view of Landis (U.S. Patent No. 3,630,473).

As per claim 1, Jackson teaches an apparatus for pivotally securing a gutter to a fascia (a gutter assembly includes a fascia bracket and a gutter bracket for rotating a gutter; abstract), such that it may be pivotally moved between a first draining position and a second cleaning position (the gutter bracket may be rotated between a first rain gathering position and a second inverted position for emptying water and/or debris from the gutter; abstract), said apparatus comprising; a bracket adapted to be attached to said fascia (the rear panel 11 of the fascia bracket 10 is shown as containing two openings for screws used to attach fascia bracket 10 to the structural fascia of buildings;

col. 3, lines 2-6) having an arm (12) outwardly extending therefrom (fascia bracket 10 is comprised of a substantially horizontal bottom panel 12 joined to the rear panel 11; col. 2, lines 66-68 to col. 3, lines 1-2); a connector adapted to be attached to said gutter (gutter bracket 20 is attached to the gutter 46; figure 5b); a hinge provided at remote end of said arm, pivotally connecting said connector to said bracket (hinge pin 22 provides the means for permitting the rotation of the gutter bracket 20 about the distal end of the bottom panel 12 of the fascia bracket 10; col. 3, lines 14-18).

Jackson fails to disclose a releasable locking means, to releasably lock said gutter in said first draining position, said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice with said bracket, such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket.

Landis discloses an eaves trough (abstract) with a releasable locking means (locking pin 50), to releasably lock said gutter in said first draining position (as illustrated, the locking pin 50 is utilized to secure the eave in a first position; figure 1), said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice (aperture 52) within said bracket (flange 18), such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket (as illustrated, the locking pin 50 is threaded and therefore capable of being rotate; figure 1).

Therefore from the teaching of Landis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly of Jackson to include a rotating releasable locking means which protrudes through an opening of a bracket as taught by Landis in order to facilitate the removal and reattachment for the cleaning of a gutter.

As per claim 2, Jackson teaches said arm of said bracket extends outwards from said fascia to a distance, which is less than the width of said gutter (as illustrated, the length of the arm portion of the bottom panel 12 in figure 1a is shorter than the length of the gutter in figure 4b).

As per claim 3, Jackson teaches an integrally formed connection means for attachment of said gutter to said hinge of said arm (gutter bracket 20 is provided for securing the gutter within the gutter bracket; col. 3, lines 49-51; as illustrated, the retaining lips 30a and 32a are integrally formed with the hinge pin 22; figure 5a).

As per claim 4, Jackson teaches a connection means which is adapted to be secured to said gutter and to said hinge means (gutter bracket 20 is provided for securing the gutter within the gutter bracket; col. 3, lines 49-51; as illustrated, the retaining lips 30a and 32a secure the gutter with the hinge pin 22; figure 5a).

As per claim 5, Jackson teaches said connection means is shaped to substantially surround and thereby support said gutter therein (as illustrated, the gutter bracket 20 is substantially surrounding the gutter 46; figure 5b).

As per claim 6, Jackson teaches extremities of said connection means are formed with deformable tabs thereon, which are adapted to be deformed to at least

partially surround lips formed on the edges of said gutter walls (gutter bracket 20 is provided with retaining lips 30a and 32a respectively for securing the gutter within the gutter bracket; col. 3, lines 49-51).

As per claim 7, Jackson teaches said apparatus is shaped to compliment the profile of the gutter to which it is attached (as illustrated, the profile of the gutter assembly is shaped similarly to profile of the gutter (figure 5b).

As per claim 8, Jackson teaches said arm extends outwards from said fascia in a substantially L-shaped configuration (fascia bracket 10 has a generally L-shaped configuration comprised of a rear panel 11 and a bottom panel 12; col. 2, lines 66-6 to col. 3, line 1).

As per claim 9, Jackson teaches a gutter adapted to be pivotally secured to a fascia (a gutter assembly includes a fascia bracket and a gutter bracket for rotating a gutter; abstract) such that it can be pivoted between a first draining position and a second cleaning position (the gutter bracket may be rotated between a first rain gathering position and a second inverted position for emptying water and/or debris from the gutter; abstract) said gutter comprising: connector means associated with said gutter (gutter bracket 20 is attached to the gutter 46; figure 5b) which is adapted to cooperate with a hinge, the hinge being provided at a remote end of an arm of a bracket, an outer end of which attached to said fascia (hinge pin 22 provides the means for permitting the rotation of the gutter bracket 20 about the distal end of the bottom panel 12 of the fascia bracket 10; col. 3, lines 14-18).

Jackson fails to disclose a releasable locking means, to releasably lock said gutter in said first draining position, said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice with said bracket, such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket.

Landis discloses an eaves trough (abstract) with a releasable locking means (locking pin 50), to releasably lock said gutter in said first draining position (as illustrated, the locking pin 50 is utilized to secure the eave in a first position; figure 1), said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice (aperture 52) within said bracket (flange 18), such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket (as illustrated, the locking pin 50 is threaded and therefore capable of being rotate; figure 1).

Therefore from the teaching of Landis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly of Jackson to include a rotating releasable locking means which protrudes through an opening of a bracket as taught by Landis in order to facilitate the removal and reattachment for the cleaning of a gutter.

As per claim 10, Jackson teaches said arm of said bracket extends outwards from said fascia to a distance, which is less than the width of said gutter (as illustrated,

the length of the arm portion of the bottom panel 12 in figure 1a is shorter than the length of the gutter in figure 4b).

As per claim 16, Jackson teaches a method of cleaning a gutter (a gutter assembly includes a fascia bracket and a gutter bracket for rotating a gutter; abstract; a method of inverting a gutter for cleaning them of debris; col. 1, lines 52-65), said gutter being pivotable between a first draining position and a second cleaning position (the gutter bracket may be rotated between a first rain gathering position and a second inverted position for emptying water and/or debris from the gutter; abstract), said gutter comprising; a bracket adapted to be attached to said fascia (the rear panel 11 of the fascia bracket 10 is shown as containing two openings for screws used to attach fascia bracket 10 to the structural fascia of buildings; col. 3, lines 2-6) having an arm (12) outwardly extending therefrom (fascia bracket 10 is comprised of a substantially horizontal bottom panel 12 joined to the rear panel 11; col. 2, lines 66-68 to col. 3, lines 1-2); a connector adapted to be attached to said gutter (gutter bracket 20 is attached to the gutter 46; figure 5b); a hinge provided at remote end of said arm, pivotally connecting said connector to said bracket (hinge pin 22 provides the means for permitting the rotation of the gutter bracket 20 about the distal end of the bottom panel 12 of the fascia bracket 10; col. 3, lines 14-18); said method comprising the steps of: moving said gutter from a first draining position (the gutter bracket may be rotated between a first rain gathering position; abstract); pivoting said gutter to a second cleaning position (and a second inverted position for emptying water and/or debris from the gutter; abstract), such that the gutter is disposed outwardly relative to its draining

position, removing debris from said gutter (as illustrated, the gutter pivots on hinge 22, which is outwardly displaced from the building fascia 50 when leaves are being removed; figure 7); returning said gutter to said first draining position (the gutter bracket may be rotated between a first rain gathering position and a second inverted position for emptying water and/or debris from the gutter; col. 2, lines 29-31).

Jackson fails to disclose a releasable locking means, to releasably lock said gutter in said first draining position, said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice with said bracket, such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket.

Landis discloses an eaves trough (abstract) with a releasable locking means (locking pin 50), to releasably lock said gutter in said first draining position (as illustrated, the locking pin 50 is utilized to secure the eave in a first position; figure 1), said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice (aperture 52) within said bracket (flange 18), such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket (as illustrated, the locking pin 50 is threaded and therefore capable of being rotate; figure 1).

Therefore from the teaching of Landis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly

of Jackson to include a rotating releasable locking means which protrudes through an opening of a bracket as taught by Landis in order to facilitate the removal and reattachment for the cleaning of a gutter.

4. Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (U.S. Patent No. 5,274,965) in view of Baskett (U.S. Patent No. 5,146,718) and further in view of Landis (U.S. Patent No. 3,630,473).

As per claim 11, Jackson teaches a guttering system (gutter bracket assembly; abstract) which enables pivotable movement of a gutter component (first pivot member attached to second pivot member to rotate the gutter; abstract) between a first draining position and a second cleaning position (the gutter bracket may be rotated between a first rain gathering position and a second inverted position for emptying water and/or debris from the gutter; abstract), said guttering system comprising; at least one gutter component including straight gutter components (gutter 46; figure 5a); connector means attached to each said gutter component (gutter bracket 20 is attached to the gutter 46; figure 5b); at least one bracket, for attachment to a fascia (fascia bracket 10), said bracket having an outwardly extending arm (fascia bracket 10 is comprised of a substantially horizontal bottom panel 12 joined to the rear panel 11; col. 2, lines 66-68 to col. 3, lines 1-2); a hinge provided at a remote end of each said arm (hinge pin 22 provides the means for permitting the rotation of the gutter bracket 20 about the distal end of the bottom panel 12 of the fascia bracket 10; col. 3, lines 14-18);

Jackson fails to disclose corner gutter components and shaped gutter components.

Baskett discloses a hinged support assembly for a gutter system (abstract) which includes a first leg 60 connected to a second leg 62 in an inside angle relationship (col. 4, lines 1-3; figure 1) and a first leg 72 arranged in an outside angle relationship to second leg 74 (col. 4, lines 14-16; figure 1).

Therefore from the teaching of Baskett, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly of Jackson to include corner members as taught by Baskett in order to be applicable for use with all of the usual gutter arrangements (col. 3, lines 51-54).

In addition, Jackson fails to disclose a releasable locking means, to releasably lock said gutter in said first draining position, said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice with said bracket, such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket.

Landis discloses an eaves trough (abstract) with a releasable locking means (locking pin 50), to releasably lock said gutter in said first draining position (as illustrated, the locking pin 50 is utilized to secure the eave in a first position; figure 1), said releasable locking means including a swivel lock attached to said connector and which is adapted to protrude through an elongated orifice (aperture 52) within said bracket (flange 18), such that, when in the first draining position, said swivel lock may be rotated such that said connector is prevented from moving apart from said bracket

(as illustrated, the locking pin 50 is threaded and therefore capable of being rotate; figure 1).

Therefore from the teaching of Landis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly of Jackson to include a rotating releasable locking means which protrudes through an opening of a bracket as taught by Landis in order to facilitate the removal and reattachment for the cleaning of a gutter.

As per claim 12, Jackson teaches each said gutter component pivots substantially upwardly and outwardly from a pivotal axis which is displaced outwards from said fascia (as illustrated, the gutter pivots on hinge 22, which is outwardly displaced from the building fascia 50; figure 7) to which said guttering system is affixed (screws 13 are used to attach fascia bracket 10 to the structural fascia of buildings; col. 3, lines 4-6).

As per claim 13, Jackson teaches said arm of said bracket extends outwards from said fascia to a distance which is less than the width of said gutter (as illustrated, the length of the arm portion of the bottom panel 12 in figure 1a is shorter than the length of the gutter in figure 4b).

As per claim 14, Jackson teaches each gutter component is adapted to pivotally move relative to compatible ancillary components (as illustrated, the gutter pivots on hinge 22, which is outwardly displaced from the building fascia 50; figure 7).

Jackson fails to disclose pivotal movement between to corner gutter components and downpipe components.

Baskett discloses a hinged support assembly for a gutter system (abstract) which includes a first leg 60 connected to a second leg 62 in an inside angle relationship (col. 4, lines 1-3; figure 1) and a first leg 72 arranged in an outside angle relationship to second leg 74 (col. 4, lines 14-16; figure 1) in addition, the gutter assembly 50, has its own downspout 52 and includes an inside angle, gutter assembly 56 has its own down spout and includes an outside angle, all of the gutter assemblies are supported by the hinged support assemblies (col. 3, lines 56-65) .

Therefore from the teaching of Baskett, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly of Jackson to include corner and downspout members supported by a hinged assembly as taught by Baskett in order to be applicable for use with all of the usual gutter arrangements (col. 3, lines 51-54).

As per claim 15, Jackson fails to disclose a seal provided between said respective gutter components and/or said compatible ancillary components.

Basket discloses a first cap piece 63 which seals the outer end of first leg 60 which is welded to second leg 62 and a second cap piece 64 which seals the end of member 62 (col. 4, lines 1-5). In addition, the adjacent ends of each pair of gutters are spaced apart by a means for deflecting water (col. 4, lines 21-26).

Therefore from the teaching of Baskett, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the gutter assembly of Jackson to include gutter members and subordinate gutter components with seals as

taught by Baskett in order to deflect water drained from the roof, which otherwise would leak through the joint between the two gutter assemblies (col. 4, lines 24-26).

***Response to Arguments***

5. Applicant's amended claims and arguments have been considered but are moot in view of the new ground(s) of rejection. New reference Landis (U.S. Patent No. 3,630,473) has been added to overcome the newly added limitations and arguments.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR HIJAZ whose telephone number is (571)270-

5790. The examiner can normally be reached on Mon-Fri 9:30 a.m. - 7:00 p.m. (alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571)272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OFH

/Brian E. Glessner/
Supervisory Patent Examiner, Art Unit 3633